

103D CONGRESS  
1ST SESSION

# H. R. 2121

To amend title 49, United States Code, relating to procedures for resolving claims involving unfilled, negotiated transportation rates, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 1993

Mr. MINETA (for himself and Mr. SHUSTER) introduced the following bill;  
which was referred to the Committee on Public Works and Transportation

AUGUST 23, 1993

Additional sponsors: Mr. TRAFICANT, Mr. VALENTINE, Mr. PETE GEREN of Texas, Mr. POSHARD, Mr. DE LUGO, Mr. BARCIA of Michigan, Mr. COPPERSMITH, Mr. MONTGOMERY, Mr. SISISKY, Mr. PETRI, Mr. BEREUTER, Mr. INHOFE, Mr. GILCHREST, Mr. CLINGER, Mr. HOEKSTRA, Mr. HUTCHINSON, Mr. BLUTE, Mr. HYDE, Mr. KIM, Mr. EWING, Mr. BARLOW, Mr. CLEMENT, Mr. TUCKER, Mr. BALLENGER, Ms. DUNN, Mr. LEVY, Mr. MCCRERY, Mr. BURTON of Indiana, Mr. MAZZOLI, Mr. PARKER, Mr. EVERETT, Mr. BEVILL, Mr. DINGELL, Mr. SUNDQUIST, Mr. GILLMOR, Mr. EMERSON, Mr. McKEON, Mr. DARDEN, Mr. SLATTERY, Mr. HASTERT, Mr. WALKER, Mr. LEWIS of Florida, Mr. HUGHES, Mr. BORSKI, Mr. COLLINS of Georgia, Mr. DEAL, Mr. DORNAN, Mr. COBLE, Mr. BACHUS of Alabama, Mr. WHITTEN, Mr. CAMP, Mr. PAYNE of Virginia, Mr. GRANDY, Mr. ENGLISH of Oklahoma, Mr. THORNTON, Mr. MOORHEAD, Mr. BAKER of California, Ms. BROWN of Florida, Mr. PETERSON of Minnesota, Mr. KING, Mr. RAMSTAD, Mr. LAUGHLIN, Mr. BOUCHER, Mr. BREWSTER, Mr. CRAMER, Ms. SHEPHERD, Mr. GLICKMAN, Ms. ESHOO, Mr. HUTTO, Mr. HALL of Texas, Mr. LANCASTER, Mrs. MINK, Mr. PENNY, Mr. ROWLAND, Mr. OBEY, Mr. MURPHY, Mr. CHAPMAN, Mr. TAYLOR of North Carolina, Mr. CALLAHAN, Mr. OXLEY, Mr. DICKEY, Mr. ROBERTS, Mr. UPTON, Mr. BARTON of Texas, Mr. MANZULLO, Mr. ROTH, Mr. KNOLLENBERG, Mr. QUINN, Mr. LIGHTFOOT, Mr. LEACH, Mr. FAWELL, Mr. BOEHNER, Mr. GINGRICH, Mr. GOSS, Mr. HOKE, Mr. KINGSTON, Mr. MYERS of Indiana, Mr. BUNNING, Mr. SCHIFF, Mr. FALEOMAVAEGA, Mr. STENHOLM, Mr. BARRETT of Wisconsin, Mr. JOHNSON of South Dakota, Mr. CONDIT, Mr. SYNAR, Mr. YATES, Mr. POMEROY, Mr. HEGER, Mr. HOUGHTON, Mr. CANADY, Mr. PACKARD, Mr. CUNNINGHAM, Mr. HANCOCK, Mr. WOLF, Mr. LINDER, Mr. COX, Mr. KYL, Mr. LIVINGSTON, Mr. MICA, Mr. SHAYS, Mr. PRICE

of North Carolina, Mr. PAXON, Mr. GOODLATTE, Ms. PRYCE of Ohio, Mr. RICHARDSON, Mr. WILLIAMS, Mr. MCHUGH, Ms. FURSE, Mr. KREIDLER, Mr. GALLO, Mr. PORTMAN, Mr. BARCA of Wisconsin, Mr. SARPALIUS, Mr. BOEHLERT, Mr. PAYNE of New Jersey, Mr. TAYLOR of Mississippi, Mr. STUMP, Mr. PETERSON of Florida, Mr. HORN, Mr. SENBRENNER, Mr. CALVERT, Mr. SHAW, Mr. CASTLE, Mr. SMITH of Oregon, Mr. BONILLA, Mr. MARKEY, Ms. SCHENK, Mr. HUNTER, Mrs. MEYERS of Kansas, Mr. PORTER, Mrs. JOHNSON of Connecticut, Ms. LAMBERT, Mr. EDWARDS of Texas, Mr. NEAL of Massachusetts, Mr. QUILLEN, Mr. KOLBE, Mr. FISH, Mr. BACCHUS of Florida, Mr. THOMPSON, Mr. INGLIS of South Carolina, Mr. BLILEY, Mr. TANNER, Mr. CRAPO, Mr. ANDREWS of Texas, Mr. SMITH of Iowa, Mr. REGULA, Mr. GUNDERSON, Mr. GEKAS, Mrs. FOWLER, Mr. JOHNSON of Georgia, Ms. PELOSI, Mr. HINCHEY, Mr. MACHTLEY, Mr. GALLEGLY, Mr. LAZIO, Mr. McMILLAN, and Mr. BARRETT of Nebraska

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## A BILL

To amend title 49, United States Code, relating to procedures for resolving claims involving unfilled, negotiated transportation rates, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Negotiated Rates Act of 1993”.

### SEC. 2. PROCEDURES FOR RESOLVING CLAIMS INVOLVING UNFILED, NEGOTIATED TRANSPORTATION RATES.

(a) IN GENERAL.—Section 10701 of title 49, United States Code, is amended by adding at the end the following new subsection:

1       “(f) PROCEDURES FOR RESOLVING CLAIMS INVOLV-  
2     ING UNFILED, NEGOTIATED TRANSPORTATION RATES.—

3               “(1) IN GENERAL.—When a claim is made by  
4     a motor carrier of property (other than a household  
5     goods carrier) providing transportation subject to  
6     the jurisdiction of the Commission under subchapter  
7     II of chapter 105 of this title, by a freight forwarder  
8     (other than a household goods freight forwarder), or  
9     by a party representing such a carrier or freight for-  
10    warder regarding the collection of rates or charges  
11    for such transportation in addition to those origi-  
12    nally billed and collected by the carrier or freight  
13    forwarder for such transportation, the person  
14    against whom the claim is made may elect to satisfy  
15    the claim under the provisions of paragraph (2), (3),  
16    or (4) of this subsection, upon showing that—

17               “(A) the carrier or freight forwarder is no  
18     longer transporting property or is transporting  
19     property for the purpose of avoiding the appli-  
20     cation of this subsection; and

21               “(B) with respect to the claim—

22                       “(i) the person was offered a trans-  
23     portation rate by the carrier or freight for-  
24     warder other than that legally on file with

1 the Commission for the transportation  
2 service;

3 “(ii) the person tendered freight to  
4 the carrier or freight forwarder in reason-  
5 able reliance upon the offered transpor-  
6 tation rate;

7 “(iii) the carrier or freight forwarder  
8 did not properly or timely file with the  
9 Commission a tariff providing for such  
10 transportation rate or failed to enter into  
11 an agreement for contract carriage;

12 “(iv) such transportation rate was  
13 billed and collected by the carrier or  
14 freight forwarder; and

15 “(v) the carrier or freight forwarder  
16 demands additional payment of a higher  
17 rate filed in a tariff.

18 If there is a dispute as to the showing under sub-  
19 paragraph (A), such dispute shall be resolved by the  
20 court in which the claim is brought. If there is a dis-  
21 pute as to the showing under subparagraph (B),  
22 such dispute shall be resolved by the Commission.  
23 Pending the resolution of any such dispute, the per-  
24 son shall not have to pay any additional compensa-  
25 tion to the carrier or freight forwarder. Satisfaction

1 of the claim under paragraph (2), (3), or (4) of this  
2 subsection shall be binding on the parties, and the  
3 parties shall not be subject to chapter 119 of this  
4 title.

5 “(2) SHIPMENTS WEIGHING 10,000 POUNDS OR  
6 LESS.—A person from whom the additional legally  
7 applicable and effective tariff rate or charges are  
8 sought may elect to satisfy the claim if the ship-  
9 ments each weighed 10,000 pounds or less, by pay-  
10 ment of 15 percent of the difference between the  
11 carrier’s applicable and effective tariff rate and the  
12 rate originally billed and paid. In the event that a  
13 dispute arises as to the rate that was legally applica-  
14 ble to the shipment, such dispute shall be resolved  
15 by the Commission.

16 “(3) SHIPMENTS WEIGHING MORE THAN 10,000  
17 POUNDS.—A person from whom the additional le-  
18 gally applicable and effective tariff rate or charges  
19 are sought may elect to satisfy the claim if the ship-  
20 ments each weighed more than 10,000 pounds, by  
21 payment of 10 percent of the difference between the  
22 carrier’s applicable and effective tariff rate and the  
23 rate originally billed and paid. In the event that a  
24 dispute arises as to the rate that was legally applica-

1 ble to the shipment, such dispute shall be resolved  
2 by the Commission.

3 “(4) SPECIAL RULE FOR SMALL-BUSINESS CON-  
4 CERNS.—Notwithstanding paragraphs (2) and (3), a  
5 person from whom the additional legally applicable  
6 and effective tariff rate or charges are sought may  
7 elect to satisfy the claim by payment of 5 percent of  
8 the difference between the carrier’s applicable and  
9 effective tariff rate and the rate originally billed and  
10 paid if such person (A) qualifies as a small-business  
11 concern under the Small Business Act (15 U.S.C.  
12 631 et seq.), (B) is an organization which is de-  
13 scribed in section 501(c)(3) of the Internal Revenue  
14 Code of 1986 and exempt from tax under section  
15 501(a) of such Code, or (C) is a public warehouse-  
16 man. In the event that a dispute arises as to the  
17 rate that was legally applicable to the shipment,  
18 such dispute shall be resolved by the Commission.

19 “(5) EFFECTS OF ELECTION.—When a person  
20 from whom additional legally applicable freight rates  
21 or charges are sought does not elect to use the pro-  
22 visions of paragraph (2), (3), or (4), the person may  
23 pursue all rights and remedies existing under this  
24 title.

1           “(6) STAY OF ADDITIONAL COMPENSATION.—

2           When a person proceeds under this section to chal-  
3           lenge the reasonableness of the legally applicable  
4           freight rate or charges being claimed by a carrier or  
5           freight forwarder described in paragraph (1) in addi-  
6           tion to those already billed and collected, the person  
7           shall not have to pay any additional compensation to  
8           the carrier or freight forwarder until the Commis-  
9           sion has made a determination as to the reasonable-  
10          ness of the challenged rate as applied to the freight  
11          of the person against whom the claim is made.

12          “(7) LIMITATION ON STATUTORY CONSTRUC-  
13          TION.—Except as authorized in paragraphs (2), (3),  
14          and (4) of this subsection, nothing in this subsection  
15          shall relieve a motor common carrier of the duty to  
16          file and adhere to its rates, rules, and classifications  
17          as required in sections 10761 and 10762 of this  
18          title.

19          “(8) NOTIFICATION OF ELECTION.—A person  
20          must notify the carrier or freight forwarder as to its  
21          election to proceed under paragraph (2), (3), or (4).  
22          Such election may be made at any time; except that  
23          if the carrier or freight forwarder or party represent-  
24          ing such carrier or freight forwarder has notified the  
25          person from whom additional freight charges are

1 sought of the provisions of paragraphs (1) through  
2 (7) at the time that the carrier or freight forwarder  
3 initially demanded the payment of additional freight  
4 charges, such election must be made—

5 “(A) not later than the later of—

6 “(i) the 60th day following the filing  
7 of an answer to a suit for the collection of  
8 such additional legally applicable freight  
9 rate or charges, or

10 “(ii) the 90th day following the date  
11 of the enactment of this subsection; or

12 “(B) in any case in which the demand was  
13 made on or before such date of enactment, not  
14 later than the 90th day after such date of en-  
15 actment.”.

16 (b) CONFORMING AMENDMENT.—Subsection (e) of  
17 such section is amended by striking “In” and inserting  
18 “Except as provided in subsection (f), in”.

19 (c) APPLICABILITY.—The amendments made by sub-  
20 sections (a) and (b) of this section shall apply to all claims  
21 pending as of the date of the enactment of this Act and  
22 to all claims arising from transportation shipments ten-  
23 dered on or before the last day of the 24-month period  
24 beginning on such date of enactment.



1       (d) REPORT.—Not later than 18 months after the  
2 date of the enactment of this Act, the Interstate Com-  
3 merce Commission shall transmit to Congress a report re-  
4 garding whether there exists a justification for extending  
5 the applicability of amendments made by subsections (a)  
6 and (b) of this section beyond the period specified in sub-  
7 section (c).

8       (e) ALTERNATIVE PROCEDURE FOR RESOLVING DIS-  
9 PUTES.—

10           (1) GENERAL RULE.—For purposes of section  
11 10701 of title 49, United States Code, it shall be an  
12 unreasonable practice for a motor carrier of property  
13 (other than a household goods carrier) providing  
14 transportation subject to the jurisdiction of the  
15 Commission under subchapter II of chapter 105 of  
16 such title, a freight forwarder (other than a house-  
17 hold goods freight forwarder), or a party represent-  
18 ing such a carrier or freight forwarder to attempt to  
19 charge or to charge for a transportation service pro-  
20 vided before September 30, 1990, the difference be-  
21 tween the applicable rate that is lawfully in effect  
22 pursuant to a tariff that is filed in accordance with  
23 chapter 107 of such title by the carrier or freight  
24 forwarder applicable to such transportation service  
25 and the negotiated rate for such transportation serv-

1 ice if the carrier or freight forwarder is no longer  
2 transporting property between places described in  
3 section 10521(a)(1) of such title or is transporting  
4 property between places described in section  
5 10521(a)(1) of such title for the purpose of avoiding  
6 the application of this subsection.

7 (2) JURISDICTION OF COMMISSION.—The Com-  
8 mission shall have jurisdiction to make a determina-  
9 tion of whether or not attempting to charge or the  
10 charging of a rate by a motor carrier or freight for-  
11 warder or party representing a motor carrier or  
12 freight forwarder is an unreasonable practice under  
13 paragraph (1). If the Commission determines that  
14 attempting to charge or the charging of the rate is  
15 an unreasonable practice under paragraph (1), the  
16 carrier, freight forwarder, or party may not collect  
17 the difference described in paragraph (1) between  
18 the applicable rate and the negotiated rate for the  
19 transportation service. In making such determina-  
20 tion, the Commission shall consider—

21 (A) whether the person was offered a  
22 transportation rate by the carrier or freight for-  
23 warder or party other than that legally on file  
24 with the Commission for the transportation  
25 service;

1 (B) whether the person tendered freight to  
2 the carrier or freight forwarder in reasonable  
3 reliance upon the offered transportation rate;

4 (C) whether the carrier or freight for-  
5 warder did not properly or timely file with the  
6 Commission a tariff providing for such trans-  
7 portation rate or failed to enter into an agree-  
8 ment for contract carriage;

9 (D) whether the transportation rate was  
10 billed and collected by the carrier or freight for-  
11 warder; and

12 (E) whether the carrier or freight for-  
13 warder or party demands additional payment of  
14 a higher rate filed in a tariff.

15 (3) STAY OF ADDITIONAL COMPENSATION.—  
16 When a person proceeds under this subsection to  
17 challenge the reasonableness of the practice of, or  
18 the legally applicable freight rate or charges being  
19 claimed by, a motor carrier, freight forwarder, or  
20 party described in paragraph (1) in addition to those  
21 already billed and collected, the person shall not  
22 have to pay any additional compensation to the car-  
23 rier, freight forwarder, or party until the Commis-  
24 sion has made a determination as to the reasonable-

1       ness of the challenged rate as applied to the freight  
2       of the person against whom the claim is made.

3           (4) TREATMENT.—Paragraph (1) of this sub-  
4       section is enacted as an exception, and shall be  
5       treated as an exception, to the requirements of sec-  
6       tions 10761(a) and 10762 of title 49, United States  
7       Code, relating to a filed tariff rate for a transpor-  
8       tation or service subject to the jurisdiction of the  
9       Commission and other general tariff requirements.

10          (5) NONAPPLICABILITY OF NEGOTIATED RATE  
11       DISPUTE RESOLUTION PROCEDURE.—If a person  
12       elects to seek enforcement of paragraph (1) with re-  
13       spect to a rate for a transportation or service, sec-  
14       tion 10701(f) of title 49, United States Code, as  
15       added by subsection (a) of this section, shall not  
16       apply to such rate.

17          (6) DEFINITIONS.—For purposes of this sub-  
18       section, the following definitions apply:

19           (A) COMMISSION, HOUSEHOLD GOODS,  
20       HOUSEHOLD GOODS FREIGHT FORWARDER, AND  
21       MOTOR CARRIER.—The terms “Commission”,  
22       “household goods”, “household goods freight  
23       forwarder”, and “motor carrier” have the  
24       meaning such terms have under section 10102  
25       of title 49, United States Code.

1 (B) NEGOTIATED RATE.—The term “nego-  
2 tiated rate” means a rate, charge, classification,  
3 or rule agreed upon by a motor carrier or  
4 freight forwarder described in paragraph (1)  
5 and a shipper through negotiations pursuant to  
6 which no tariff was lawfully and timely filed  
7 with the Commission and for which there is  
8 written evidence of such agreement.

9 **SEC. 3. STATUTE OF LIMITATIONS.**

10 (a) MOTOR CARRIER CHARGES.—Section 11706(a)  
11 of title 49, United States Code, is amended by striking  
12 the period at the end and inserting the following: “; except  
13 that a motor carrier or freight forwarder—

14 “(1) must begin such a civil action within 2  
15 years after the claim accrues if the transportation or  
16 service is provided by the carrier in the 1-year pe-  
17 riod beginning on the date of the enactment of the  
18 Negotiated Rates Act of 1993; and

19 “(2) must begin such a civil action within 18  
20 months after the claim accrues if the transportation  
21 or service is provided by the carrier after the last  
22 day of such 1-year period.”.

23 (b) MOTOR CARRIER OVERCHARGES.—Section  
24 11706(b) of title 49, United States Code, is amended by  
25 striking “. If that claim is against a common carrier” and

1 inserting the following: “; except that a person must begin  
2 a civil action to recover overcharges from a motor carrier  
3 subject to the jurisdiction of the Commission under sub-  
4 chapter II of chapter 105 of this title for transportation  
5 or service—

6 “(1) within 2 years after the claim accrues if  
7 such transportation or service is provided in the 1-  
8 year period beginning on the date of the enactment  
9 of the Negotiated Rate Act of 1993; and

10 “(2) within 18 months after the claim accrues  
11 if such transportation or service is provided after the  
12 last day of such 1-year period.

13 If the claim is against a common carrier”.

14 (c) CONFORMING AMENDMENT.—Section 11706(d)  
15 of title 49, United States Code, is amended—

16 (1) by striking “3-year period” each place it ap-  
17 pears and inserting “limitations periods”;

18 (2) by striking “is extended” the first place it  
19 appears and inserting “are extended”; and

20 (3) by striking “each”.

21 **SEC. 4. TARIFF RECONCILIATION RULES FOR MOTOR CAR-**  
22 **RIERS OF PROPERTY.**

23 (a) IN GENERAL.—Chapter 117 of title 49, United  
24 States Code, is amended by adding at the end the follow-  
25 ing new section:

1   **“§ 11712. Tariff reconciliation rules for motor com-**  
2                   **mon carriers of property**

3           “(a) MUTUAL CONSENT.—Subject to Commission re-  
4 view and approval, motor carriers subject to the jurisdic-  
5 tion of the Commission under subchapter II of chapter  
6 105 of this title and shippers may resolve, by mutual con-  
7 sent, overcharge and undercharge claims resulting from  
8 incorrect tariff provisions or billing errors arising from the  
9 inadvertent failure to properly and timely file and main-  
10 tain agreed upon rates, rules, or classifications in compli-  
11 ance with sections 10761 and 10762 of this title. Resolu-  
12 tion of such claims among the parties shall not subject  
13 any party to the penalties of chapter 119 of this title.

14          “(b) LIMITATION ON STATUTORY CONSTRUCTION.—  
15 Nothing in this section shall relieve the motor carrier of  
16 the duty to file and adhere to its rates, rules, and classi-  
17 fications as required in sections 10761 and 10762, except  
18 as provided in subsection (a) of this section.

19          “(c) RULEMAKING PROCEEDING.—Not later than 90  
20 days after the date of the enactment of this section, the  
21 Commission shall institute a proceeding to establish rules  
22 pursuant to which the tariff requirements of sections  
23 10761 and 10762 of this title shall not apply under cir-  
24 cumstances described in subsection (a) of this section.”.

1 (b) CONFORMING AMENDMENT.—The analysis for  
2 chapter 117 of title 49, United States Code, is amended  
3 by adding at the end the following:

“11712. Tariff reconciliation rules for motor common carriers of property.”.

4 **SEC. 5. CUSTOMER ACCOUNT CODES.**

5 Section 10762 of title 49, United States Code, is  
6 amended by adding at the end the following new sub-  
7 section:

8 “(h) CUSTOMER ACCOUNT CODES.—No tariff filed  
9 with the Commission before, on, or after the date of the  
10 enactment of this subsection may be held invalid solely on  
11 the basis that a numerical or alpha account code is used  
12 in such tariff to designate customers or to describe the  
13 applicability of rates. For transportation performed on  
14 and after the 90th day following such date of enactment,  
15 the name of the customer for each account code must be  
16 set forth in the tariff.”.

17 **SEC. 6. CONTRACTS OF MOTOR CONTRACT CARRIERS.**

18 (a) IN GENERAL.—Section 10702 of title 49, United  
19 States Code, is amended by adding at the end the follow-  
20 ing new subsection:

21 “(c) CONTRACTS OF CARRIAGE FOR MOTOR CON-  
22 TRACT CARRIERS.—

23 “(1) GENERAL RULE.—A motor contract car-  
24 rier providing transportation subject to the jurisdic-  
25 tion of the Commission under subchapter II of chap-



1       ter 105 of this title shall enter into a written agree-  
2       ment, separate from the bill of lading or receipt, for  
3       each contract for the provision of transportation  
4       subject to such jurisdiction which is entered into  
5       after the 90th day following the date of the enact-  
6       ment of this subsection.

7               “(2) MINIMUM CONTENT REQUIREMENTS.—The  
8       written agreement shall, at a minimum—

9               “(A) identify the parties thereto;

10              “(B) commit the shipper to tender and the  
11       carrier to transport a series of shipments;

12              “(C) contain the contract rate or rates for  
13       the transportation service to be or being pro-  
14       vided; and

15              “(D)(i) provide for the assignment of  
16       motor vehicles for a continuing period of time  
17       for the exclusive use of the shipper; or

18              “(ii) provide that the service is designed to  
19       meet the distinct needs of the shipper.

20              “(3) RETENTION BY CARRIER.—All written  
21       agreements entered into by a motor contract carrier  
22       under paragraph (1) shall be retained by the carrier  
23       while in effect and for a minimum period of 3 years  
24       thereafter and shall be made available to the Com-  
25       mission upon request.

1           “(4) RANDOM AUDITS BY COMMISSION.—The  
2       Commission shall conduct periodic random audits to  
3       ensure that motor contract carriers are complying  
4       with this subsection and are adhering to the rates  
5       set forth in their agreements.”.

6       (b) CIVIL PENALTY.—Section 11901(g) of such title  
7       is amended—

8           (1) by inserting “or enter into or retain a writ-  
9       ten agreement under section 10702(c) of this title”  
10      after “under this subtitle” the first place it appears;  
11      and

12          (2) by striking “or (5)” and inserting “(5) does  
13      not comply with section 10702(c) of this title, or  
14      (6)”.

15      (c) CRIMINAL PENALTY.—Section 11909(b) of such  
16      title is amended—

17          (1) by inserting “or enter into or retain a writ-  
18      ten agreement under section 10702(c) of this title”  
19      after “under this subtitle” the first place it appears;  
20      and

21          (2) in clause (1) by inserting after “make that  
22      report” the following: “or willfully does not enter  
23      into or retain that agreement”.

1 **SEC. 7. BILLING AND COLLECTING PRACTICES.**

2 (a) IN GENERAL.—Subchapter IV of chapter 107 of  
3 title 49, United States Code, is amended by adding at the  
4 end the following new section:

5 **“§ 10767. Billing and collecting practices**

6 “Not later than 90 days after the date of the enact-  
7 ment of this section, the Commission shall issue regula-  
8 tions prohibiting a motor carrier subject to the jurisdiction  
9 of the Commission under subchapter II of chapter 105 of  
10 this title from giving a reduction in a rate set forth in  
11 its tariff or contract to any person other than the person  
12 who is paying for the transportation service and is indi-  
13 cated on the bill of lading or receipt as the person paying  
14 for such service.”.

15 (b) CONFORMING AMENDMENT.—The analysis for  
16 such subchapter is amended by adding at the end the fol-  
17 lowing new item:

“10767. Billing and collecting practices.”.

18 (c) VIOLATION.—

19 (1) IN GENERAL.—Section 11901 of such title  
20 is amended by redesignating subsection (l) as sub-  
21 section (m) and by inserting after subsection (k) the  
22 following new subsection:

23 “(l) RATE DISCOUNTS.—A person, or an officer, em-  
24 ployee, or agent of that person, that knowingly pays, ac-  
25 cepts, or solicits a reduced rate in violation of the regula-

1 tions issued under section 10767 of this title is liable to  
 2 the United States for a civil penalty of not less than  
 3 \$5,000 for the first violation and not less than \$10,000  
 4 for a subsequent violation.”.

5 (2) VENUE.—Section 11901(k)(2) of such title  
 6 is amended by striking “or (k)” and inserting “(k),  
 7 or (l)”.

8 **SEC. 8. RESOLUTION OF DISPUTES RELATING TO CON-**  
 9 **TRACT OR COMMON CARRIER CAPACITIES.**

10 Section 11101 of title 49, United States Code, is  
 11 amended by adding at the end the following new sub-  
 12 section:

13 “(d) RESOLUTION OF DISPUTES RELATING TO CON-  
 14 TRACT OR COMMON CARRIER CAPACITIES.—If a motor  
 15 carrier subject to the jurisdiction of the Commission under  
 16 subchapter II of chapter 105 of this title has authority  
 17 to provide transportation as both a motor common carrier  
 18 and a motor contract carrier and a dispute arises as to  
 19 whether certain transportation is provided in its common  
 20 carrier or contract carrier capacity and the parties are not  
 21 able to resolve the dispute consensually, the Commission  
 22 shall have jurisdiction to, and shall, resolve the dispute.”.

23 **SEC. 9. TRANSPORTATION RESEARCH BOARD STUDY.**

24 (a) ARRANGEMENTS WITH NATIONAL ACADEMY OF  
 25 SCIENCES.—Not later than 30 days after the date of the

1 enactment of this Act, the Secretary of Transportation  
2 shall undertake to enter into appropriate arrangements  
3 with the Transportation Research Board to conduct a  
4 study of—

5           (1) the benefits to the public of tariff rate fil-  
6       ings by motor carriers of property with the Inter-  
7       state Commerce Commission under chapter 107 of  
8       title 49, United States Code;

9           (2) the extent to which the current system for  
10      filing of such tariffs is utilized by shippers;

11          (3) the difficulty and cost of determining rates  
12      for transportation services under such system; and

13          (4) the number of actions brought before the  
14      Commission with respect to such rates.

15 Additional purposes of the study are to determine methods  
16 of improving such current system, including determining  
17 the feasibility and necessity of establishing an electronic  
18 tariff filing system that is capable of receiving, storing,  
19 and retrieving data concerning tariffs filed under such  
20 chapter for transportation of property and the rates actu-  
21 ally charged for such transportation, the benefits and  
22 costs of such an electronic system (including methods for  
23 paying for such costs), the demand of shippers for such  
24 an electronic system, and the projected difficulty of deter-  
25 mining tariff rates from such an electronic system.

1 (b) CONSULTATION AND REPORT.—In entering into  
2 any arrangements with the Transportation Research Bu-  
3 reau for conducting the study under this section, the Sec-  
4 retary of Transportation shall request the Transportation  
5 Research Bureau—

6 (1) to consult with the Department of Trans-  
7 portation, the Interstate Commerce Commission,  
8 shippers and motor carriers of property, concerned  
9 labor organizations, and manufacturers of computer-  
10 ized telecommunications systems, in conducting such  
11 study; and

12 (2) to submit, not later than 18 months after  
13 the date of entry into arrangements under sub-  
14 section (a), to the Secretary, the Committee on  
15 Commerce, Science, and Transportation of the Sen-  
16 ate, and the Committee on Public Works and Trans-  
17 portation of the House of Representatives a report  
18 on the results of such study.

19 The report shall include recommendations of the Trans-  
20 portation Research Bureau with respect to establishment  
21 and operation of an electronic tariff filing system and  
22 other methods of improving the motor carrier tariff filing  
23 system of the Commission.

24 (c) AUTHORIZATION OF APPROPRIATION.—There is  
25 authorized to be appropriated to the Secretary of Trans-

- 1 portation to carry out this section \$400,000. Such sums
- 2 shall remain available until expended.

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HR 2121 SC——2